



General Assembly

Substitute Bill No. 336

February Session, 2004

* _____SB00336LAB__031004_____*

AN ACT CONCERNING FAMILY AND MEDICAL LEAVE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 5-247 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2004*):

4 (a) (1) Each appointing authority shall grant, on account of illness or
5 injury, to each full-time employee in a permanent position in the state
6 service who has furnished satisfactory proof of such illness or injury,
7 such sick leave with pay as has accrued to [his] such employee's credit
8 at the rate of one and one-quarter working days for each completed
9 calendar month of continuous full-time service which may be
10 computed on an hourly basis. Hourly computation of sick leave shall
11 not diminish benefit entitlement.

12 (2) Each appointing authority shall grant to each full-time employee
13 in a permanent position in the state service who has furnished
14 satisfactory proof of (A) the birth or adoption of a child of the
15 employee, or (B) a serious illness of a child, spouse or parent of the
16 employee, up to two weeks of such sick leave with pay as has accrued
17 to the employee's credit pursuant to subdivision (1) of this subsection.

18 (3) On or before [October 1, 1980] January 1, 2005, the Commissioner
19 of Administrative Services shall adopt regulations, in accordance with

20 the provisions of chapter 54, concerning the accrual, prorating and
21 granting of sick leave with pay to other employees in the state service
22 and extending sick leave with pay or with part pay for longer periods
23 to full-time permanent employees disabled through illness or injury.
24 Such regulations shall specify that such other employees are entitled to
25 use up to two weeks of accumulated sick leave upon the birth or
26 adoption of a child of such employee, or upon the serious illness of a
27 child, spouse or parent of such employee.

28 (4) Each such employee who retires under the provisions of chapter
29 66 shall be compensated, effective as of the date of [his] retirement, at
30 the rate of one-fourth of such employee's salary for sick leave accrued
31 to [his] such employee's credit as of [his] such employee's last day on
32 the active payroll up to a maximum payment equivalent to sixty days'
33 pay. Such payment for accumulated sick leave shall not be included in
34 computing retirement income and shall be charged by the State
35 Comptroller to the department, agency or institution in which the
36 employee worked.

37 (5) For purposes of this subsection, "serious illness" means an
38 illness, injury, impairment or physical or mental condition that
39 involves (A) inpatient care in a hospital, hospice or residential care
40 facility, or (B) continuing treatment or continuing supervision by a
41 health care provider.

42 Sec. 2. Subdivision (4) of section 31-51kk of the general statutes is
43 repealed and the following is substituted in lieu thereof (*Effective*
44 *October 1, 2004*):

45 (4) "Employer" means a person engaged in any activity, enterprise
46 or business who employs seventy-five or more employees, and
47 includes any person who acts, directly or indirectly, in the interest of
48 an employer to any of the employees of such employer and any
49 successor in interest of an employer, but [shall] does not include the
50 state or a parochial elementary or secondary school. [, a municipality, a
51 local or regional board of education, or a private or parochial

52 elementary or secondary school.] The number of employees of an
53 employer shall be determined on October first annually.

54 Sec. 3. (NEW) (*Effective October 1, 2004*) (a) As used in this section:

55 (1) "Eligible employee" means an employee who has been employed
56 (A) for at least twelve months by the parochial elementary or
57 secondary school with respect to whom sick leave is requested; and (B)
58 for at least one thousand two hundred fifty hours of service with such
59 school during the twelve-month period preceding the first day of the
60 leave;

61 (2) "Employ" includes to allow or permit to work;

62 (3) "Employee" means any person engaged in service to a parochial
63 elementary or secondary school in the business of the school;

64 (4) "Employment benefits" means all benefits provided or made
65 available to employees by a parochial elementary or secondary school,
66 including group life insurance, health insurance, disability insurance,
67 sick leave, annual leave, educational benefits and pensions, regardless
68 of whether such benefits are provided by practice or written policy of a
69 parochial elementary or secondary school or through an "employee
70 benefit plan", as defined in Section 1002(3) of Title 29 of the United
71 States Code;

72 (5) "Health care provider" means (A) a doctor of medicine or
73 osteopathy who is authorized to practice medicine or surgery by the
74 state in which the doctor practices; (B) a podiatrist, dentist,
75 psychologist, optometrist or chiropractor authorized to practice by the
76 state in which such person practices and performs within the scope of
77 the authorized practice; (C) an advanced practice registered nurse,
78 nurse practitioner, nurse midwife or clinical social worker authorized
79 to practice by the state in which such person practices and performs
80 within the scope of the authorized practice; (D) Christian Science
81 practitioners listed with the First Church of Christ, Scientist in Boston,
82 Massachusetts; (E) any health care provider from whom a parochial

83 elementary or secondary school or a group health plan's benefits
84 manager will accept certification of the existence of a serious health
85 condition to substantiate a claim for benefits; (F) a health care provider
86 as defined in subparagraphs (A) to (E), inclusive, of this subdivision
87 who practices in a country other than the United States, who is
88 licensed to practice in accordance with the laws and regulations of that
89 country; or (G) such other health care provider as the Labor
90 Commissioner determines, performing within the scope of the
91 authorized practice. The commissioner may utilize any determinations
92 made pursuant to chapter 568 of the general statutes;

93 (6) "Parent" means a biological parent, foster parent, adoptive
94 parent, stepparent or legal guardian of an eligible employee or an
95 eligible employee's spouse, or an individual who stood in loco parentis
96 to an employee when the employee was a son or daughter;

97 (7) "Serious health condition" means an illness, injury, impairment,
98 or physical or mental condition that involves (A) inpatient care in a
99 hospital, hospice, nursing home or residential medical care facility; or
100 (B) continuing treatment, including outpatient treatment, by a health
101 care provider;

102 (8) "Son or daughter" means a biological, adopted or foster child,
103 stepchild, legal ward, or child of a person standing in loco parentis,
104 who is (A) under eighteen years of age; or (B) eighteen years of age or
105 older and incapable of self-care because of a mental or physical
106 disability; and

107 (9) "Spouse" means a husband or wife, as the case may be.

108 (b) It shall be unlawful for any parochial elementary or secondary
109 school to deny an eligible employee the right to use up to two weeks of
110 accumulated sick leave or to discharge, threaten to discharge, demote,
111 suspend or in any manner discriminate against an eligible employee
112 for using, or attempting to exercise the right to use, up to two weeks of
113 accumulated sick leave to attend to a serious health condition of a son
114 or daughter, spouse or parent of the employee, or for the birth or

115 adoption of a son or daughter of the employee.

116 (c) Any employee aggrieved by a violation of this section may file a
117 complaint with the Labor Commissioner alleging violation of the
118 provisions of this section. Upon receipt of any such complaint, the
119 commissioner shall hold a hearing. After the hearing, the
120 commissioner shall send each party a written copy of the
121 commissioner's decision. The commissioner may award the employee
122 all appropriate relief, including rehiring or reinstatement to the
123 employee's previous job, payment of back wages and reestablishment
124 of employment benefits to which the employee otherwise would have
125 been eligible if a violation of this section had not occurred. Any party
126 aggrieved by the decision of the commissioner may appeal the
127 decision to the Superior Court in accordance with the provisions of
128 chapter 54 of the general statutes.

129 (d) The rights and remedies specified in this section are cumulative
130 and nonexclusive and are in addition to any other rights or remedies
131 afforded by contract or under other provisions of law.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>

LAB *Joint Favorable Subst.*